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| 10/591,126 | 08/30/2006 | Jacques Thomasset | 2590-166 | 7345 |
| 23117 7590 02/04/2010 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | | |
| EXAMINER KASHNIKOW, ERIK | | | | |
| ART UNIT 1794 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,126

Applicant(s)

THOMASSET, JACQUES

Examiner

ERIK KASHNIKOV

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 11/24/09

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1- 4 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi et al (5,403,029) in view of Akiyama (2002/0182351).
3. In regards to claim 1 Kawaguchi et al. teach a method for forming a composite by extrusion molding a resin material wherein the composite resin material comprises an outer synthetic layer and an inner synthetic layer enclosed therein, wherein the inner synthetic layer is the functional layer, such as a gas barrier layer (column 1 lines 7-9, 5 lines 63-64 and column 3 lines 28-31). Kawaguchi et al. teach that these are to be further used for compression molding (column 10 lines 60-67).
4. In regards to claims 11 and 12 Kawaguchi et al. teach an embodiment wherein there is an axis of revolution around said body and wherein the body is closed and contains no orifice (figures 8a-8d).
5. It is noted that Kawaguchi et al is silent with regards to a concave surface.
6. Akiyama et al. teach extrusion molding a resin material wherein a concave surface is formed.

7. In regards to claim 1 Akiyama et al. teach a coextrusion process (paragraph 0122 and figure 7) wherein the thermoplastic layers are extruded into a mold. Wherein the mold starts out rectilinearly and then narrows, which would form the concave surface (paragraph 00124 and figure 11. It is pointed out in figure 11 that the mold is shown in an open position and represented by reference number 10, when closed reference number 21 narrows the mold, and moves the plastics resulting in a concave surface).
8. In regards to claims 2 and 4 it would be obvious to one of ordinary skill in the art at the time of the invention that an concave surface comprises an orifice and that concave surface would be formed by at least a part of said orifice, and that would part of said orifice would be on the surface of said dose.
9. In regards to claims 7-9, in the closed position figure 11 would have an open body of revolution.
10. In regards to claims 3 and 10 as Akiyama et al. teach that the article is to be a container, one of ordinary skill in the art would recognize that a pipe is a container wherein the orifice would go completely through said container.
11. Akiyama et al teach a method of making hollow bodies of a multi layer thermoplastic nature (paragraph 0001).
12. In regards to claims 13 and 14 Akiyama et al. teach a molded object formed by a coaxial coextrusion process (paragraph 0122 and figure 7) wherein the thermoplastic layers are extruded into a mold. Wherein the mold starts out rectilinearly and then narrows, which would form the concave surface (paragraph 00124 and figure 11). It is

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pointed out in figure 11 that the mold is shown in an open position and represented by reference number 10, when closed reference number 21 narrows the mold, and moves the plastics resulting in a concave surface). While Akiyama et al. is silent with regards to the inner layer being completely enclosed, it would be obvious to one of ordinary skill in the art at the time of the invention to do so to more completely protect the inner layer.

13. Akiyama et al. teach that the walls 10 and section 21 of the mold are pinch of sections, or sections that slide in and pinch off the mold (paragraph 0124).

14. One of ordinary skill in the art at the time of the rejection would be motivated to modify the invention of Kawaguchi et al. with that of Akiyama et al. because the invention of Akiyama et al. offers the ability to finely control wall thickness in future finished products (paragraph 0005).

15. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi et al (5,403,029) in view of Akiyama (2002/0182351) and Kudert et al. (US 6,332, 767).

16. As stated above Kawaguchi and Akiyama et al. teach a molten "dose" prior to undergoing any compression molding wherein an internal layer is enveloped within the outer layer however they are silent regarding olds and adhesive layers of the internal layer.

17. Kudert et al. teach articles wherein a functional layer is contained within an outer layer.

18. In regards to claim 5 Kudert et al. teach an embodiment wherein the functional layer is between two adhesive resins which would increase the functional layers affinity to said outer layer (column 27 lines 38 to column 28 line 19).
19. In regards to claim 6 Kudert et al. teach an embodiment wherein it is known to include folds in resin with in resin articles (Figures 6 and 7).
20. One of ordinary skill in the art at the time of the invention would have been motivated to modify the invention of Kawaguchi and Akiyama with that of Kudert because the invention of Kudert offers increased adhesion of the functional layer (column 28 lines 1-19).

Response to Arguments

21. Applicant's arguments regarding the 112 1st paragraph rejections were persuasive, and as such the rejection has been withdrawn.
22. In regards to Applicant's arguments regarding the Kudert reference, Examiner points out that now the Kudert reference is being used solely as a teaching reference and the Kawaguchi reference is being used to teach the dose.
23. In regards to applicant's arguments regarding the Akiyama reference, Examiner is not clear where the reference is teaching compression molding, the dose in that is not formed using any compression molding, as such the rejection is maintained.

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIK KASHNIKOW whose telephone number is (571)270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (Second Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Erik Kashnikow
Examiner
Art Unit 1794

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1794